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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**  
12  
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14 In the Matter of the Accusation Against:

Case No. *2010-268*

15 **JULIE McCOOSH**  
21477 Grape Lily Circle, Apt. 205  
16 Santa Clarita, CA 91321

**A C C U S A T I O N**

17 **Registered Nurse License No. 611948**

18 Respondent.  
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20 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

21 **PARTIES**

22 1. Complainant brings this Accusation solely in her official capacity as the Interim  
23 Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

24 **License History**

25 2. On or about January 17, 2003, the Board of Registered Nursing issued Registered  
26 Nurse License Number 611948 ("license") to Julie McCoosh ("Respondent"). The license will  
27 expire on June 30, 2010, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code"), unless otherwise indicated.

4. Code section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

## STATUTORY PROVISIONS

7. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, . . .

. . .

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

8. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or the extent that such use impairs his or

her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

### **COST RECOVERY**

9. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

### **FIRST CAUSE FOR DISCIPLINE**

#### **(Criminal Convictions)**

10. Respondent is subject to disciplinary action under Code section 2761, subdivision (f), in that Respondent was convicted of crimes substantially related to the functions, duties, and qualifications of a licensee, as follows:

a. On or about January 13, 2009, in the Superior Court of California, County of Los Angeles, in the case entitled, *People of the State of California v. Julie McCoosh* (Super Ct. Los Angeles County, Santa Clarita, 2008, Case No. 8NW03664), Respondent was convicted on her plea of nolo contendere of violating Vehicle Code section 23152, subdivision (b) (driving while having a 0.08% or higher blood alcohol [.20%] with a Prior [12/14/2005]), a misdemeanor.

b. The circumstances of the crime are that on or about July 24, 2008, a California Highway Patrol (CHP) Officer observed Respondent driving in an erratic manner. He observed that she was squealing her vehicle's tires and exceeding the speed limit. The officer further observed that the vehicle was weaving from left to right, causing the vehicle's right side tires to cross the broken white lane dividers. The officer instructed the Respondent to yield several times over his public address (PA) system before she yielded. Once the Officer was able to make contact with Respondent, he smelled a strong odor of an alcoholic beverage emitting from her breath and person. He also observed that Respondent had red, watery eyes and slurred speech. The officer had Respondent perform a series of pre-field sobriety tests (F.S.T.s), at which time he

1 determined that Respondent was impaired. Based on Respondent's driving, her display of  
2 objective symptoms of intoxication, her statements and her performance on the F.S.T.s, the  
3 officer arrested Respondent for driving under the influence of alcoholic beverages. Respondent  
4 was taken to a booking facility where her breath tests results indicated .26% and .28% blood  
5 alcohol content.

6 c. On or about December 14, 2005, in the Superior Court of California, County of  
7 Los Angeles, in the case entitled, *People of the State of California v. Julie McCoosh* (Super Ct.  
8 Los Angeles County, Central, 2005, Case No. 5MT10443), Respondent was convicted on her plea  
9 of nolo contendere of violating Vehicle Code sections 23152, subdivision (b) (driving while  
10 having a 0.08% or higher blood alcohol), a misdemeanor.

11 d. The circumstances of the crime are that on or about September 9, 2005, a California  
12 Highway Patrol (CHP) officer was called to the scene of a single car traffic collision. Upon  
13 arriving at the scene, the officer found Respondent sitting on the back of a fire department engine.  
14 Upon approaching Respondent, the officer could smell the strong odor of an alcoholic beverage  
15 emitting from her person and observed Respondent to have bloodshot eyes. Respondent admitted  
16 to the officer that she had consumed two alcoholic beverages earlier. Respondent stated that she  
17 had been driving on the freeway and had been unable to negotiate a right turn and had collided  
18 with the curb. The officer then demonstrated several Field Sobriety Tests (F.S.T.s) to  
19 Respondent. Respondent failed to perform the FSTs as they had been demonstrated or explained.  
20 Based on the fact that Respondent had been in a traffic collision, her display of objective  
21 symptoms of intoxication and her poor performance on the F.S.T.s, the officer determined that  
22 Respondent had been driving under the influence of an alcoholic beverage and placed her under  
23 arrest. The officer later took Respondent to the CHP office where she submitted to breath tests.  
24 Her results indicated .26%/.25% blood alcohol content.

## 25 **SECOND CAUSE FOR DISCIPLINE**

### 26 **(Criminal Convictions Involving the Consumption of Alcohol)**

27 11. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),  
28 on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (c), in

1 that Respondent was convicted of a crimes involving the consumption of alcoholic beverages, as  
2 set forth in paragraph 10, above. Complainant refers to, and by this reference incorporates, the  
3 allegations set forth above in paragraph 10, subsections a through d, as though set forth fully.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Use of an Alcoholic Beverages to the Extent or**  
6 **in a Manner Dangerous or Injurious to Herself or Others)**

7 12. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),  
8 on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (b), in  
9 that Respondent consumed alcoholic beverages to an extent or in a manner dangerous or injurious  
10 to herself or others, as set forth paragraph 10, subsections a through d, above. Complainant refers  
11 to, and by this reference incorporates, the allegations set forth above in paragraph 10, subsections  
12 a through d, as though set forth fully.

13 **OTHER MATTERS**

14 13. To determine the degree of discipline, if any, to be imposed on Respondent,  
15 Complainant alleges that in or about July 1994, Respondent was convicted of driving under the  
16 influence of alcohol in Leesville, Louisiana, and that in or about May 1998, Respondent was  
17 convicted of driving under the influence of alcohol in Colorado Springs, Colorado. Respondent  
18 admitted to both convictions in an addendum to her July 2002, Application for RN Licensure with  
19 the California Board of Nursing. The records of those criminal proceedings are incorporated as if  
20 fully set forth.

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**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 611948 issued to Julie McCoosh;
2. Ordering Julie McCoosh to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: \_\_\_\_\_

*11/17/07*

*Louise R. Bailey*  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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